

JUL 02 2003

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA)	CAUSE NO.: A-1474
DEPARTMENT OF INSURANCE,)	
)	
PETITIONER,)	
)	FINDINGS OF FACT,
vs.)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
PAUL HOLDEMAN,)	ORDER
)	
RESPONDENT.)	

This matter came on for hearing on the 19th day of June, 2003, before Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance (Department) was represented by its attorney, Eric Dunning. Paul Holdeman ("Respondent") was present, but was not represented by counsel. The Rules of Evidence were not requested and the hearing was governed accordingly. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

JUL 02 2003 ACCT# 8521 \$3,000.00
NO-INVOICE TRAN# 1196245
HOLDEMAN, PAUL RICHARD
CHECK# 500779

FINDINGS OF FACT

1. Respondent is a licensed Nebraska insurance producer whose current registered address with the Department is 1520 South 25th Street, Omaha, NE 68105.
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
3. The Petition for Further Order and Notice of Hearing were served upon Respondent by mailing the same to his address of record by certified mail, return receipt

requested. Respondent did not retrieve the certified letter from the Postal Service as evidenced by the attachment to Exhibit 1. Nonetheless, Respondent was present at the hearing and understood Petitioner's allegations contained in the Petition for Further Order and Notice of Hearing.

4. On or about July 10, 2002, Respondent was the subject of an administrative action filed by the Department in State of Nebraska Department of Insurance v. Paul Holdeman, Cause No.: A-1474. In an effort to conclude the matter, Respondent signed a Consent Order on or about August 12, 2002 in which Respondent agreed to pay an administrative fine to the Department of \$3,000 for six counts of failure to respond to the Department regarding two complaints, the Havlat complaint and the Bonifas complaint. (Exhibit 5).

5. Respondent failed to pay the \$3,000 fine within thirty (30) days of the date the Director of Insurance signed the Consent Order, which would have been on or about September 13, 2002, as provided in the document. (Exhibit 5).

6. The Consent Order provided, and Respondent agreed by signing the Consent Order, that Respondent's insurance producer's license would be suspended if he failed to pay the administrative fine. Therefore, Respondent's insurance producer's license was suspended effective September 14, 2002 as a result of his failure to pay the \$3,000 administrative fine when it was due and remains in a suspended status to date.

7. On or about March 7, 2003, the Department sent a reminder letter to Respondent that his insurance producer's license was suspended and that the \$3,000 fine was immediately due. It does not appear the Department received a response to this letter.

8. Respondent testified that he had decided to leave the insurance business around the time that he signed the Consent Order as a result of personal issues that he needed to resolve. Previously, Respondent's five children had been placed into state foster care when removed from his ex-spouse's custody. Because he was traveling for Consecos five days a week, Respondent was not able to care for his children and they remained in state foster care. In an effort to obtain full custody of his children, Respondent resigned his employment with Consecos and decided to look for work in another field.

9. Respondent testified that he had discussed the Havlat and Bonifas complaint with the Department's Consumer Affairs Division investigator and explained that he could not respond to the complaints because he had terminated his affiliation with Consecos and could not get the records from the company in order to respond. Respondent stated that he tried to respond to the Department's letters, but it was hard for him to do so without the records from Consecos. Respondent admits that he should have maintained copies of the records in his own files, but failed to do so.

10. Despite an attempt to locate work in another field, Respondent replied to an ad for insurance sales representatives placed by Bankers Life Insurance Company and was hired for the position in or around September 2002. Respondent testified that he told Bankers Life about the previous administrative action.

11. The Department's records did not show Respondent's insurance producer's license as being "suspended" until March 7, 2003, when the Department sent the follow-up letter to Respondent even though Respondent's insurance producer's license was suspended from September 14, 2002 and remains suspended.

12. From the time Respondent was hired by Bankers Life Insurance Company, he has solicited insurance on behalf of Bankers Life.

13. Respondent testified that has been a licensed insurance producer for 13 years and that, in that time, he has had five complaints filed with the Department. Of the five complaints, one was early in his career, two were the subject of the Consent Order referenced herein as Exhibit 5, and two were recently filed while he has been affiliated with Bankers Life. Respondent is working with his supervisor and the Department to respond to those complaints.

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to *Neb. Rev. Stat. §44-4041 et seq.*

2. The Department has personal jurisdiction over Respondent.

3. Respondent violated *Neb. Rev. Stat. §44-4059(1)(b)* by failing to pay the administrative fine of \$3,000 when due.

4. Respondent violated *Neb. Rev. Stat. §44-4060(2)* by accepting a commission . . . or other valuable consideration for selling, soliciting or negotiating insurance in Nebraska while his license is suspended.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that:

1. Respondent be required to pay the \$3,000 administrative fine within ten (10) days of the date the Director signs this order.

a. If Respondent fails to pay the fine within the ten (10) days, Respondent's insurance producer license shall be revoked and Respondent shall be prohibited from re-applying for a producer license for the term of one year.

b. If Respondent pays the \$3,000 administrative fine within ten (10) days of the date the Director signs this order, the suspension of Respondent's license shall be lifted and he shall be placed on probation for the period of one year from the date the Director signs this order, with the Terms of Probation as follows: (i) The Director of Insurance hereby appoints the Administrator of the Consumer Affairs Division of the Nebraska Department of Insurance ("Administrator") to act as the Department contact for Respondent during the term of his probation; (ii) Respondent shall pay all costs associated with the requirements of probation; (iii) During the one year term of probation, Respondent is required to complete three (3) hours of Ethics education in addition to any continuing education required for his two year licensing period; (iv) Respondent is required to forward to Administrator, on a quarterly basis, a written statement from the compliance division of all insurers with which he is appointed addressing the number of complaints filed against him with each insurer; (v) Respondent is required to maintain thorough and complete copies of all records related to his insurance sales activities and will submit said records to the Department for inspection and review, if required; (vi) a hearing to review the status of Respondent's probation shall be held at the

end of the probationary period. Respondent shall not be released from
probation unless the release is ordered by the Director of the Nebraska
Department of Insurance.

Dated this 30th day of June, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Christine Neighbors
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and
Recommended Order and hereby certify that the conditions of the Recommended Order
as set forth in Paragraphs 1 and 2 are adopted as the official and final Order of this
Department in the matter of State of Nebraska Department of Insurance v. Paul
Holdeman, Cause No.: A-1474.

Dated this 2nd day of ^{July} ~~June~~, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of
Law, Recommended Order and Order was served upon the Respondent by mailing a copy
to Respondent at 1520 South 25th Street, Omaha, NE 68105 by certified mail, return
receipt requested on this 7th day of ^{July} ~~June~~, 2003.

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